

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LP MATTHEWS, L.L.C.,)
)
Plaintiff,)
)
v.)
) C.A. No. 04-1507 (SLR)
BATH & BODY WORKS, INC.; LIMITED)
BRANDS, INC.; KAO BRANDS CO.)
(f/k/a THE ANDREW JERGENS)
COMPANY); and KAO CORPORATION,)
)
Defendants.)

**KBC'S MOTION FOR SUMMARY JUDGMENT
OF NON-INFRINGEMENT**

Pursuant to Fed. R. Civ. P. 56 and as set forth in the accompanying memorandum, defendant Kao Brands Co. ("KBC") moves for summary judgment of non-infringement.

Counsel is aware of this Court's general policy not to decide summary judgment motions until late in the case and after the completion of fact and expert discovery. However, it is submitted that the circumstances in this case justify an exception to this general policy since plaintiff, it is believed, does not have even an arguable position as to infringement. In such a circumstance, it is submitted, KBC should not be required to defer until late in the case the resolution of this dispositive issue.

The grounds for this motion are more fully set forth in KBC's Memorandum in Support of its Motion for Summary Judgment of Non-Infringement, filed contemporaneously herewith.

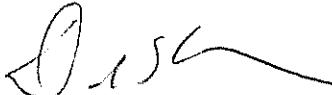
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Dated: March 8, 2005

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CERTIFICATE OF SERVICE

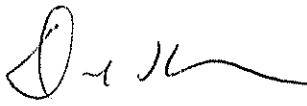
I, David E. Moore, hereby certify that on March 8, 2005, I electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following:

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I hereby certify that on March 8, 2005, I have Federal Expressed the documents to the following non-registered participants:

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